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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,469	08/17/2000	Douglas J. Herst	202N-095	6333

7590  
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Suite 2360  
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07/18/2002

EXAMINER

LEE, Y MY QUACH

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 07/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/641,469

Applicant(s)

HERST ET AL.

Examiner

Y QUACH LEE

Group Art Unit

2875

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE Three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 4/23/2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1 to 44 is/are pending in the application.
- Of the above claim(s) 4 to 7, 12, 13 and 38 to 44 is/are withdrawn from consideration.
- ☒ Claim(s) 1 to 3, 8 to 11, 14 to 20, 25 to 27 and 30 to 33 is/are allowed.
- ☒ Claim(s) 34 to 37 is/are rejected.
- ☒ Claim(s) 21 to 24, 28 and 29 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☒ The drawing(s) filed on 8/17/2000 is/are objected to by the Examiner
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 2875

### ***DETAILED ACTION***

#### ***Election/Restrictions***

1. Applicant's election with traverse in Paper No. 8 is acknowledged. The traversal is on the ground(s) that the claims are not mutually exclusive. This is not found persuasive because an appropriate traversal of an election of species is that the species are not patentably distinct. The requirement is still deemed proper and is therefore made FINAL. Claims 4 to 7, 12, 13 and 38 to 44 are therefore withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species.

#### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference signs "37a" and "37b" not mentioned in the specification. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign "94" as mentioned on line 11 of page 16 in the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Specification***

4. The disclosure is objected to because of the following informalities: On page 16, line 11, the reference numeral "94" is incorrect in view of drawing figures 7 and 8. It should be changed to --101--. On page 16, line 17, the reference numeral "101" should be deleted. On page 16, line 17, after "portion", reference numeral --101-- should be inserted. Appropriate correction is required.

#### ***Claim Objections***

5. Claims 21 to 24, 28, 29 and 34 to 37 are objected to because of the following informalities: In claim 21, the term "said active light source" lacks a clear antecedent basis. It should be changed to --said light source--. The term "said diffuser cover element" lacks a clear

Art Unit: 2875

antecedent basis. It should be changed to --said brightness reduction cover element--. Claims 22 to 24 depend on objected claim 21 and as such are also objected. In claim 28, the term "said brightness reduction cover element" lacks a clear antecedent basis. It should be changed to --said light diffuser cover strip--. Claim 29 depends on objected claim 28 and as such is also objected. In claim 34, the term "said active high output light source" lacks a clear antecedent basis. It should be changed to --said active high brightness light source--. In claims 35 to 37, the term "said light reduction cover element" lacks a clear antecedent basis. It should be changed to --said brightness reduction cover element--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. Claims 35 to 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 35, it is not clear how the brightness reduction cover element simulates a fluorescent lamp while the cover element has a substantially semi-cylindrical shape?

In claims 36 and 37, it is not clear how the brightness reduction cover element simulates a tubular shaped fluorescent lamp while the cover element has a substantially semi-cylindrical shape?

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 34 is rejected under 35 U.S.C. 102(b) as being anticipated by Herst et al.

Herst et al. disclose a method of producing direct and indirect lighting from an active light source (15) having top and bottom surface portions with relatively high surface brightness comprising the step of producing up light for indirect lighting directly from the top surface portion of the light source, the step of producing down light for direct lighting through a brightness reduction cover element (17, 45, 61) positioned below and in close proximity to the bottom surface portion of the light source, and the brightness reduction cover element sized and

Art Unit: 2875

shaped to surround the bottom surface portion of the light source so as to simulate a relatively low brightness light source (column 2, lines 5 to 6, lines 34 to 35, column 3, lines 18 to 19, ...) having a larger surface area than the surface area of the active high brightness light source.

9. Claims 1 to 3, 8 to 11, 14 to 20, 25 to 27 and 30 to 33 are allowed.

10. Claims 21 to 24 would be allowable if rewritten or amended to overcome the objection(s) set forth in this Office action.

11. Claims 28 and 29 would be allowable if rewritten to overcome the objection(s) set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 35 to 37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. Claims 1 to 3, 8 to 11, 14 to 33 and 35 to 37 contain allowable subject matter because the prior art does not teach the combination subject matter as claimed.

**Conclusion**


14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Leibig et al. is cited to show other pertinent down lighting fixture.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y Quach Lee whose telephone number is 703-308-1939. The examiner can normally be reached on Tuesday and Thursday from 8:30 am to 4:30 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Y. Q.  
July 3, 2002

  
Y Quach Lee  
Patent Examiner  
Art Unit 2875